

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

CHIQUITA H. HANDY,

Respondent,

v.

KEVIN L. HANDY,

Appellant.

DOCKET NUMBER WD71888

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 12, 2011

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable W. Brent Powell, Judge

JUDGES

Division Two: Mitchell, P.J., and Ellis and Howard, JJ.

CONCURRING.

ATTORNEYS

Chiquita H. Handy
Phoenix, AZ

Respondent, *pro se*,

M. Corinne Corley
Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

CHIQUITA H. HANDY,)
)
Respondent,)
v.) **OPINION FILED:**
) **April 12, 2011**
KEVIN L. HANDY,)
)
Appellant.)

WD71888

Jackson County

Before Division Two Judges: Karen King Mitchell, Presiding Judge, and
Joseph M. Ellis and Victor C. Howard, Judges

This is a dissolution of marriage case. The issues are whether the trial court abused its discretion in ordering the marital home sold, finding that the marital home was worth \$135,000, denying the husband's motion to reopen the evidence on the issue of the home's value, and/or ordering the husband to pay maintenance in the amount of \$600 per month. We hold that the trial court abused its discretion in ordering the sale of the marital home. The trial court acted within its discretion in all other respects. Therefore, we affirm in part, reverse in part, and remand for proceedings consistent with this opinion.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

DIVISION TWO HOLDS:

The trial court has substantial discretion in dividing marital property. *Galloway v. Galloway*, 122 S.W.3d 705, 707 (Mo. App. E.D. 2003). Nevertheless, "a sale [of marital property] should be ordered only as a final alternative when no other possibility can be devised." *Id.* (emphasis added). In general, in order for the court to properly order a sale of marital property, it must find that (1) an in-kind division of the property is infeasible; and (2) a forced sale is in the interest of at least one party. *Id.*

Under the circumstances of this case, an in-kind distribution of the marital equity was feasible, and therefore the trial court erred in ordering the home sold. *See id.*

The court was within its discretion in valuing the marital home based on the evidence before it and in denying Husband's motion to reopen the evidence.

There was substantial evidence to support both the finding of Wife's need for maintenance and Husband's ability to pay it.

Accordingly, the trial court's judgment is affirmed in part, reversed in part, and remanded for proceedings consistent with this opinion.

OPINION BY: Karen King Mitchell, Presiding Judge

April 12, 2011

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